IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4724 of 2003

Date of Decision: 13.12.2006

Lakhmi Chand ...Appellant

Vs.

Sat Pal Singh & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.P.K.Gupta, Advocate,
with Mr. Munish Gupta, Advocate,
for the appellant.

Mr.Vinod Gupta, Advocate,
for respondent No.3.

Vinod K.Sharma, J. (Oral)

Present appeal has been filed against the award passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short the Tribunal) vide which the claim petition filed by the appellant was dismissed. The learned Tribunal further came to the conclusion that proceedings under Section 340 of the Code of Criminal Procedure (for short the Code) be also initiated against the appellant for producing false bills in order to claim medical expenses incurred on account of injuries suffered in the motor vehicular accident.

The case set up by the claimant was that on 3.10.2001 when the claimant was returning from Ladwa to Pipli he was traveling in Jeep bearing No.HR-04/7224. According to the claimant the jeep was being driven rashly and negligently by the driver of the vehicle and at about 8-10 a.m. when the Jeep was ahead of village Mathana towards Pipli in the area of Police Station, Sadar Thanesar, the driver lost control on the vehicle which resulted in jeep turning turtle and on account of which the occupants suffered injuries. The claimant-appellant was got admitted in Ashirwad Nursing Home, Kurukshetra where he was treated. On account of the said injuries the appellant claimed a sum of Rs.5 lacs as compensation.

The claim petition was contested by the respondents wherein it was denied that the accident had occurred due to rash and negligent driving of the driver of the jeep. The stand taken was that the claim petition was moved to grab the money to which the claimant was not entitled. The Insurance Company further took a plea that the driver of the vehicle was not holding a valid driving licence and further that the jeep was being used as a taxi against the terms and conditions of the policy and therefore, the Insurance Company was not liable to pay the compensation.

On the pleadings of the parties, the learned Tribunal framed the following issues:-

1. Whether the accident in question resulting in to injuries to Lakhmi Chand was caused on 3.10.2001, at about 8.30 a.m. in the area of village, Mathana on account of rash and negligent driving of jeep No.HR-04-7224 by its driver-respondent No.1? OPP

2. If issue No.1 is proved, whether the claimant is entitled

to compensation, if so, how much and from whom? OPP

3. Whether respondent No.1 was not holding a valid and effective driving licence? OPR

4. Relief.

The learned Tribunal on appreciation of evidence came to the conclusion that the accident in question which resulted in injuries to the claimant was not on account of rash and negligent driving of Jeep No.HR-04-7224 by its driver. However, on issue No.2, the learned Tribunal had come to the conclusion that the claimant would have been entitled to compensation to the tune of Rs.36,200/- on account of injuries suffered as well as medical expenses incurred by him. However, in view of the findings on issue No.1 no compensation was granted to the claimant appellant. Issue No.3 was decided against the Insurance Company and it was held that the driver was holding a valid and effective driving licence.

Mr. P.K.Gupta, learned counsel for the appellant has not contested the finding of the learned Tribunal on issue No.1 as the same is based on appreciation of evidence and especially keeping in view, the fact that the claimant-appellant in the first version before the police had stated that there was no fault of the driver in the accident. However, learned counsel for the appellant states that in view of the permanent disability of 7 per cent the claimant was entitled to compensation of Rs.25,000/- under 'no fault liability' in terms of Section 140 of the Motor Vehicles Act, 1988. In support of this contention, learned counsel for the appellant has placed reliance on the judgment of this Court in **Jaswinder Singh and Others Vs. Amarjit Singh & Anr. 1995 (2) AIJ 137**, wherein it has been held as under:

"1. A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed before the Motor Accident Claims Tribunal, Hoshiarpur, seeking compensation of Rs.10,00,000/- on account of death of Charan Kamal Singh, who died in a motor accident on 27.10.1990. The Tribunal vide its award dated 8.8.1991 had dismissed the claim petition by holding that the respondent-Driver cannot be blamed for the accident which took place due to rash and negligent driving of the deceased-Driver.

2. Dissatisfied with the award, the claimants have filed the present appeal.

3. The challenge to the award is that the tractor which was being driven by respondent No.1, Amarjit Singh came from the opposite side at a fast speed and hit the Car on its driver side. As such no fault to the deceased can be attributed in the accident.

4. Counsel for the respondents contends that the findings of the Tribunal on material issue are based on the evidence. As such, no interference with the well reasoned findings recorded by the tribunal is called for.

5. After having considered the submissions of the learned counsel for the parties and perusing the paper book, this Court is of the view that the findings of the Tribunal are based on evidence. It is also observed from the photographs, exhibits R-1 to R-4 taken at the spot, which were the part of the trial Court's record, that the car had banged into the right rear

wheel of the tractor and then went out off the road. However, it is not in dispute that the deceased, Charan Kamal Singh had died in the vehicular accident.

6. In this view of the matter, the claimants are held entitled to the compensation of Rs.25,000/- on account of 'no fault liability' with 10% interest per annum from the date of filing of the claim petition.

F.A.O. Is disposed of accordingly. No order as to costs."

I feel that the case of the appellant is squarely covered by the judgment of this Court and therefore, it is held that the appellant is entitled to a sum of Rs.25,000/- under 'no fault liability'.

The learned counsel for the appellant has challenged the impugned part of order vide which the learned Tribunal has ordered the initiation of proceedings under Section 340 Cr.P.C. primarily on the ground that the medicines were purchased by the injured from time to time and the bills were taken subsequently and therefore, merely on the ground that the dates on the bills did not show the purchase of medicines on the date of issuance of bills cannot be a ground for initiation of proceedings under Section 340 Cr.P.C. The learned counsel for the appellant further contended that it is not disputed that the claimant was injured and underwent treatment on the basis of which learned Tribunal had come to the conclusion that the claimant would have been entitled to a sum of Rs.36,200/- but the same in any case is not payable to him. The learned counsel for the appellant finally submitted that the act of submitting the bills was bona fide act and he had no intention to claim any additional amount

and therefore, it was not a case where proceedings under Section 340 Cr.P.C. could have been ordered. Without going into the merit of the contentions, once the appellant is not being paid compensation on account of injuries suffered or amount spent by him towards treatment and he is being granted compensation only under section 140 of the Act, I feel that no useful purpose would be served in initiating the proceedings under Section 340 Cr.P.P.C. Accordingly, impugned part of the judgment ordering initiation of proceedings under section 340 Cr.P.C. is hereby set aside.

In view of what has been stated above, the appeal is partly allowed and it is held that the appellant is entitled to a sum of Rs.25,000/- as compensation under 'no fault liability'. The appellant shall also be entitled to interest at the rate of 7.5 per cent on this amount from the date of the award till realisation. The liability to pay the compensation by the respondents shall be joint and several.

(Vinod K.Sharma)
13.12.2006 Judge
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